



Luann G. Welmer, Clerk-Treasurer

**CITY COUNCIL MEETING  
CITY HALL  
TUESDAY, DECEMBER 18, 2012  
5:00 O'CLOCK P.M.**

**I. Meeting Called to Order**

- A. Opening Prayer
- B. Pledge of Allegiance
- C. Roll Call
- D. Acceptance of Minutes

**II. Unfinished Business Requiring Council Action**

- A. Second Reading of an Ordinance entitled "ORDINANCE NO. \_\_\_, 2012, AN ORDINANCE AMENDING THE WESTWOOD PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD) WITH REGARD TO MULTI-FAMILY RESIDENTIAL USE OF LOT 4 IN AREA B." (Westwood Preliminary PUD 3<sup>rd</sup> Amendment). Jeff Bergman.

**III. New Business Requiring Council Action**

- A. First Reading of an Ordinance entitled "ORDINANCE NO. \_\_\_, 2013, AMENDING ORDINANCE NO. 20-2011, ESTABLISHING A FUND FOR THE RECEIPT OF USER FEES ASSOCIATED WITH THE RENTAL OF THE COLUMBUS POLICE DEPARTMENT FIREARMS RANGE, FUNDS FROM USED SHELL CASINGS, FUNDS FROM FINGERPRINTING FEES, CRIMINAL BACKGROUND CHECK FEES, SOLICITATION LICENSE FEES, AUDIO OR PHOTOGRAPHIC EVIDENCE PREPARATION FEES, CITIZEN'S FIREARMS CLASS FEES, AND TEEN DRIVING FEES." Jason Maddix.
- B. First Reading of an Ordinance entitled "ORDINANCE NO. \_\_\_, 2012, AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, AMENDING CHAPTER 9 OF THE COLUMBUS CITY CODE TO ADD SECTION 9.34, ETHICS ORDINANCE." Kelly Benjamin.

- C. First Reading of an Ordinance entitled "ORDINANCE NO.\_\_\_\_\_, 2012, AN ORDINANCE TO RATIFY AND APPROVE A LAND TRANSFER OF THE COLUMBUS MUNICIPAL AIRPORT." Mayor Brown.

#### **IV. Other Business**

- A. Standing Committee and Liaison Reports
- B. Discussion Items: None
- C. Next regular meeting is scheduled for Tuesday, January 7, 2013 at 6:00 o'clock P.M. in City Hall.
- D. Adjournment.



## MEMORANDUM

**TO:** Columbus City Council Members

**FROM:** Jeff Bergman, AICP  
on behalf of the Columbus Plan Commission

**DATE:** November 26, 2012

**RE:** *PUD-12-04 (Westwood Preliminary PUD 3<sup>rd</sup> Amendment)*

The Columbus Plan Commission considered the above referenced request at its October 10 and November 14, 2012 meetings. By a vote of 7 in favor and 2 opposed the Plan Commission has forwarded the matter to the City Council with a favorable recommendation.

The request involves Lot 4 of the Westwood development, which is located on the south side of State Road 46, east of County Road 350 West. Lot 4 is located immediately at the south-east corner of the intersection of State Road 46 and County Road 350 West. This development currently includes a CVS/pharmacy, the Westwood Pines apartments, and the Green Tree assisted living facility. The applicant, Breeden Investment Group, is the original developer of Westwood.

This development is zoned "PUD", which indicates that the developer and the City have entered into a negotiated process by which unique zoning regulations were established and adopted for the property. The original Westwood PUD was established in 1994 and has been amended twice previously. Breeden is currently requesting to again amend the PUD, to allow multi-family residential as a permitted use on Lot 4, which is in a sub-area (Area B) of the PUD that currently only allows commercial development. Multi-family residential development is permitted in other areas of Westwood; generally on the south side of the development. To allow for the possibility of multi-family residential development on Lot 4 that may contain multiple buildings, Breeden has also requested that Lot 4 be exempt from an original PUD stipulation limiting this sub-area to a maximum of 8 buildings.

The Plan Commission discussion on this request focused on the general suitability of this location for multi-family residential development. The 2 Plan Commission members who voted against the request indicated a desire for more detailed information regarding how multi-family residential development could occur on the site, including the number of units, amount of open space, etc. The Plan Commission attached the following commitment to the favorable recommendation: "At the time of any residential development of Lot 4, or any portion thereof, a sidewalk shall also be installed along the north side of Pine Ridge Drive along the frontage of Blocks "C" and "D" (if such sidewalk has not previously been installed). The required sidewalk shall be completed prior to occupancy of the Lot 4 residential development." This commitment is intended to address a temporary gap in the Westwood sidewalk network and ensure a connection between any new residential development on Lot 4 and the nearby CVS/pharmacy. The applicants have indicated their agreement with this commitment.

Please note that the terms of the Westwood PUD provide the Plan Commission with design review authority over projects in the development on a lot by lot basis. Any development of Lot 4 will require a subsequent public hearing and Plan Commission approval.

No neighboring property owners or other members of the public spoke during the Plan Commission meetings on this matter.

The following items of information are attached to this memo for your consideration:

1. the proposed ordinance approving the PUD amendment,
2. the resolution certifying the action of the Plan Commission,
3. a copy of the Plan Commission staff report,
4. a location map, and
5. an exhibit provided by the applicant.

Please feel free to contact me if you have any questions regarding this matter.



ORDINANCE NO.: \_\_\_\_\_, 201\_\_

**AN ORDINANCE AMENDING THE  
WESTWOOD PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD)  
WITH REGARD TO MULTI-FAMILY RESIDENTIAL USE OF LOT 4 IN AREA B**

**To be known as the: Westwood Preliminary PUD 3<sup>rd</sup> Amendment  
Plan Commission Case No.: PUD-12-04**

**WHEREAS**, this preliminary PUD amendment was requested by Breeden Investment Group Inc. and includes the consent of all owners of the subject property; and

**WHEREAS**, the Columbus Plan Commission did, on October 10 and November 14, 2012, hold legally advertised public hearings on said request and has certified a favorable recommendation to the Common Council; and

**WHEREAS**, the Common Council of the City of Columbus, Indiana has considered the provisions of Chapter 5.3 of the Columbus & Bartholomew County Zoning Ordinance.

**NOW THEREFORE BE IT ORDAINED** by the Common Council of the City of Columbus, Indiana, as follows:

**SECTION 1: Westwood Preliminary PUD Amended**

The Westwood Preliminary PUD is amended to (1) add "multi-family" residential as a permitted use on Lot 4 of Area B and (2) exempt any multi-family residential development on Lot 4 of Area B from the eight building maximum that otherwise applies to that Area. Lot 4 is specifically described as follows:

*Lot number 4 in "Westwood" as recorded in Plat Book "Q", Page 279A in the Office of the Recorder of Bartholomew County, Indiana*

**SECTION 2: Condition(s) & Commitment(s)**

The use and development of the subject property shall be subject to the following condition: The Westwood Preliminary PUD 3<sup>rd</sup> Amendment document, as proposed by the applicant, shall be revised to both appropriately indicate the current amendment and document all previous approvals.

The use and development of the subject property shall be subject to the following commitment: At the time of any residential development of Lot 4, or any portion thereof, a sidewalk shall also be installed along the north side of Pine Ridge Drive along the frontage of Blocks "C" and "D" (if such sidewalk has not previously been installed). The required sidewalk shall be completed prior to occupancy of the Lot 4 residential development.

**SECTION 3: Repealer**

All ordinances or parts thereof in conflict with this Ordinance shall be repealed to the extent of such conflict.

**SECTION 4: Severability**

If any provision, or the application of any provision, of this Ordinance is held unconstitutional or invalid the remainder of the Ordinance, or the application of such provision to other circumstances, shall be unaffected.

**SECTION 5: Effective Date**

This Ordinance shall be effective upon and after the date and time of its adoption and the fulfillment of the above listed condition(s), as provided in Indiana law.

**ADOPTED**, by the Common Council of the City of Columbus, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_.m., by a vote of \_\_\_\_\_ ayes and \_\_\_\_\_ nays.

\_\_\_\_\_  
Presiding Officer

**ATTEST:**

\_\_\_\_\_  
Luann Welmer  
Clerk-Treasurer of the City of Columbus, Indiana

Presented to me, the Mayor of Columbus, Indiana, the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

\_\_\_\_\_  
Kristen S. Brown  
Mayor of the City of Columbus, Indiana

**RESOLUTION: PUD-12-04**

**of the City of Columbus, Indiana Plan Commission**

regarding

**Case number PUD-12-04**

**(Westwood Preliminary PUD 3<sup>rd</sup> Amendment),**

**a proposal to amend the Westwood PUD**

**to include Multi-family Residential as a Permitted Use on Lot 4, Area B**

**WHEREAS**, the Plan Commission has received the application referenced above from Breeden Investment Group, Inc.; and

**WHEREAS**, the applicant(s) represent 100% of the property owners involved in the PUD amendment request, which meets the requirements of IC 36-7-4-1505(c) and IC 36-7-4-602(c)(1)(B); and

**WHEREAS**, the Plan Commission did, on October 10 and November 14, 2012, hold public hearings consistent with the applicable requirements of Indiana law, the Columbus & Bartholomew County Zoning Ordinance, and the Plan Commission Rules of Procedure; and

**WHEREAS**, the Plan Commission did pay reasonable regard to the criteria contained in Section 5.3(D)(3) of the Columbus & Bartholomew County Zoning Ordinance; and

**WHEREAS**, the Plan Commission recognizes that its action on this matter represents a recommendation to the Common Council of the City of Columbus, Indiana, which will be responsible for final action on the request.

**NOW THEREFORE BE IT RESOLVED**, by the Plan Commission of the City of Columbus, Indiana, as follows:

- 1) The amendment of the Westwood Preliminary PUD to (1) add multi-family residential as a permitted use of Lot 4, Area B and (2) exempt any multi-family residential development of Lot 4 from the Area B maximum density of eight buildings is forwarded to the Common Council with a favorable recommendation (Lot 4 generally includes 2.03 acres located at the south-east corner of the intersection of State Road 46 and County Road 350 West).
- 2) The favorable recommendation includes the condition that all Planning Department technical comments regarding the revised PUD drawing be addressed and the following commitment: At the time of any residential development of Lot 4, or any portion thereof, a sidewalk shall also be installed along the north side of Pine Ridge Drive along the frontage of Blocks "C" and "D" (if such sidewalk has not previously been installed). The required sidewalk shall be completed prior to occupancy of the Lot 4 residential development.
- 3) This resolution shall serve as the certification required for such PUD amendments (re-zonings) by IC 36-7-4-1505(c) and IC 36-7-4-605.

**ADOPTED BY THE COLUMBUS, INDIANA PLAN COMMISSION THIS 14<sup>th</sup> DAY OF, NOVEMBER 2012 BY A VOTE OF 7 IN FAVOR AND 2 OPPOSED.**

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Roger Lang, President

**ATTEST:**

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David L. Hayward, Secretary

Prepared by the City of Columbus - Bartholomew County Planning Department  
Jeffrey R. Bergman, AICP #014602 – Planning Director



## STAFF REPORT

### CITY OF COLUMBUS PLAN COMMISSION (October 10, 2012 Meeting)

**Docket No. / Project Title:** PUD-12-04 (Westwood Preliminary PUD, 3<sup>rd</sup> Amendment)  
**Staff:** Derek Naber  
**Applicant:** Breeden Investment Group, Inc.  
**Property Size:** 39.27 Acres (Entire Development)  
**Current Zoning:** PUD (Planned Unit Development)  
**Proposed Zoning:** PUD (Planned Unit Development)  
**Location:** Southeast corner of the intersection of Jonathan Moore Pike (SR 46) and County Road 350 West, in the City of Columbus

#### Background Summary:

The applicant has indicated that the proposed revised preliminary Planned Unit Development is for the purpose of allowing multi-family residential as a permitted use on Lot 4 of the Westwood PUD.

#### Key Issue Summary:

The following key issue(s) should be resolved through the consideration of this application:

1. Is multi-family residential appropriate at this location?
2. Should a maximum density or other development standards for a multi-family use be established by this Preliminary PUD?
3. Are additional sidewalks needed to support multi-family residential at this location?

#### Preliminary Staff Recommendation & Comments:

Favorable Recommendation to the City Council.

The recommendation shall include the following condition: The text and graphics of the Preliminary PUD document shall be amended as follows:

- a. "Preliminary" shall be inserted in the title of the document.
- b. Shading of Lot 4 shall match the rest of Area (B).
- c. The sign graphics and location map shown on the Westwood Preliminary PUD – 2<sup>nd</sup> Amendment shall be added.
- d. The "Amendment Notes" section shall also reference the previous two amendments.
- e. The "Amendment Notes" section shall remove the statement: "In accordance with the Zoning Ordinance of current adoption, effective April 3, 2008. Said Lot 4 is amended from Area (B) as previously designated on original PUD of "Westwood" and any requirements thereof."
- f. The "Proposed Uses" section shall remove the statement "Multi-family residential in accordance with the Zoning Ordinance of current adoption, effective April 3, 2008. Said Lot 4 is amended from Area (B) as previously designated on original PUD of "Westwood" and any requirements thereof."
- g. The "Permitted Uses" section shall replace the statement "All uses permitted in Area (B), in addition, multi-family residential in accordance with the Zoning Ordinance of current-adoption, effective April 3, 2008," with the following statement, "Also on Lot 4 only, multi-family residential shall be permitted." This statement shall be added underneath the Area (B) subsection.



**Plan Commission Options:**

In reviewing a request for a Preliminary PUD the Plan Commission may (1) forward a favorable recommendation to the City Council, (2) forward an unfavorable recommendation to the City Council, (3) forward the application to City Council with no recommendation, or (4) continue the review to a future Plan Commission meeting. The Plan Commission may attach conditions to any recommendation which are to become written commitments of the applicant. The City Council makes all final decisions regarding Preliminary PUD applications.

**Decision Criteria:**

Indiana law and the Columbus Zoning Ordinance require that the Plan Commission and City Council pay reasonable regard to the following when considering any rezoning (including Preliminary PUD applications):

**The Comprehensive Plan.**

*Preliminary Staff Comments:* The Comprehensive Plan indicates that this area should be commercial as are most properties along the commercial corridor of Jonathan Moore Pike. The Comprehensive Plan further encourages new development to be in scale with the surrounding area. The subject property is located on the edge of the city limits and is east of several low density single-family homes.

**The current conditions and the character of current structures and uses in each district.**

*Preliminary Staff Comments:* The subject property is currently undeveloped and is located in an area along a commercial corridor. The subject property is also along the edge of the Westwood development area and is located next to a low density residential area with a number of surrounding single-family homes.

**The most desirable use for which the land in each district is adapted.**

*Preliminary Staff Comments:* Lot 4 is located along the commercial corridor of Jonathan Moore Pike and is currently permitted a variety of commercial uses. The subject property is located next to a low density residential area and multi-family residential would better serve as a transition from the subject property to the surrounding area.

**The conservation of property values throughout the jurisdiction of the City of Columbus.**

*Preliminary Staff Comments:* The subject property, which is undeveloped, is located along the commercial corridor of Jonathan Moore Pike. The area is also east of a number of single-family homes, just outside of the city limits. A better transition from a commercial area to low density residential could be provided through multi-family residential.

**Responsible growth and development.**

*Preliminary Staff Comments:* The subject property is located within the city limits of Columbus which has adequate access to existing streets and infrastructure and commercial and emergency services. The subject property is located along arterial and collector streets which would provide adequate vehicular ingress and egress to and from the property. The surrounding area also has a variety of commercial amenities including a grocery, retail establishments, and restaurants.

Current Property Information:	
Land Use:	Vacant (Undeveloped)
Site Features:	There are no relevant site features on the property.
Flood Hazards:	The eastern portion of the property is featured in 100-year floodway fringe.

<b>Special Circumstances:</b> (Airport Hazard Area, Wellfield Protection Area, etc.)	No special circumstances exist at this location.
<b>Vehicle Access:</b>	The property has potential access from Jonathan Moore Pike (Principle Arterial, Commercial, Suburban), 350 West (Collector, Residential, Suburban), or Pine Ridge Drive (Local, Commercial, Suburban).

<b>Surrounding Zoning and Land Use:</b>		
	<b>Zoning:</b>	<b>Land Use:</b>
<b>North:</b>	AP (Agriculture: Preferred) CN (Commercial: Neighborhood Center)	Single-Family Residential
<b>South:</b>	PUD (Planned Unit Development)	Medical Office
<b>East:</b>	PUD (Planned Unit Development)	Vacant (Undeveloped)
<b>West:</b>	AP (Agriculture: Preferred)	Single-Family Residential

<b>Permitted Uses in the existing Westwood Preliminary PUD:</b>		
<b>Area (A)</b>	<b>Area (B)</b> (Including Lot 4)	<b>Area (C)</b>
<b>RB (Restricted Buffer) Uses:</b> <ul style="list-style-type: none"> <li>• Day care centers and kindergartens</li> <li>• Educational institutions, special schools, vocational school and music and art studios.</li> <li>• General business office uses, including medical and dental clinics; provided that no retail activity is carried on with the general public and no stock of goods is maintained for sale.</li> <li>• Public and semi-public uses including but not limited to museums, libraries, parks, churches, community centers, exhibition and assembly halls, convention centers, galleries, and facilities for the production of live theater and accessory retail sales incidental to the primary use of the facility, including but not limited to a theater equipment sales, ticket sales, and museum gift shops.</li> <li>• Catering establishments, when conducted independently and not as</li> </ul>	<b>All Uses in Area (A) +</b> <b>B-2 (Community Business) Uses: (with exceptions)</b> <ul style="list-style-type: none"> <li>• Public service uses, including utility substations and distribution centers, bus, police and fire stations, post offices, libraries, telephone exchanges, waterworks, pumping station, assembly halls, vocational and special schools.</li> <li>• General business offices, including agency, insurance and association offices and communication, travel and health studios.</li> <li>• Retail service uses, including department stores, furniture, carpet, interior decorating, upholstering, furrier, and office supply stores, restaurants and</li> </ul>	<ul style="list-style-type: none"> <li>• Single-Family Residential</li> <li>• Two-Family Residential</li> <li>• Multi-Family Residential</li> <li>• Commercial, professional, and corporate office buildings.</li> <li>• Child and Adult Day-Care Facilities</li> <li>• Group Homes</li> <li>• Home Occupations</li> <li>• Recreational Facilities</li> </ul>

<p>accessory to a restaurant or dining establishment.</p> <p><b>B1 (Neighborhood Business) Uses:</b></p> <ul style="list-style-type: none"> <li>• Business service uses, including banks and financial institutions.</li> <li>• Clothing service uses, including dry cleaning and laundry receiving stations, laundromats, dressmaking, millinery, tailoring and shoe repair shops.</li> <li>• Equipment service uses, including electrical and household appliance store, radio, television and record sales and repairs, sporting goods and hardware stores.</li> <li>• Food service uses, including grocery, meat and fish markets, delicatessen, eating places and bakery.</li> <li>• Personal service uses, including beauty and barber shops, camera and photographic shops and optician shops.</li> <li>• Professional office uses, including medical and dental clinics.</li> <li>• Retail service uses including drugstores, variety stores, book and stationary stores, newsstands, candy and ice cream stores, florist, gift, antique, art, music, toy and hobby shops, package liquor stores, paint and wallpaper stores, jewelry and leather stores.</li> <li>• Special service uses, including children's homes, day care centers, kindergartens, nursing homes, and neighborhood social centers.</li> </ul> <p><b>Additional Uses:</b></p> <ul style="list-style-type: none"> <li>• Corporate Offices</li> <li>• Motel with Lounge &amp; Dining Facilities</li> <li>• Restaurants with Drive-Up Facilities</li> </ul>	<p>catering establishments; hotels; and storage, processing and/or conditioning when incidental to any of these uses.</p> <ul style="list-style-type: none"> <li>• Indoor commercial recreational uses, including auditorium, theater, bowling alley, dance studios, and amusement facilities.</li> <li>• Special service uses, including mortuaries and funeral parlors, garden supply centers (fully contained within building) and automobile accessory stores.</li> <li>• Fraternal, philanthropic and charitable uses, private clubs, lodges, social centers and athletic clubs, health and religious establishments.</li> <li>• Outdoor commercial recreation including baseball fields, swimming pools, skating rinks, miniature golf ranges and similar open-air facilities; provided that any structure or area used for such outdoor recreation purpose shall be located not less than one hundred (100) feet from any residential district.</li> </ul> <p><b>Additional Uses:</b></p> <ul style="list-style-type: none"> <li>• Convenience Center with self-service gasoline facilities.</li> </ul>	
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<b>Interdepartmental Review:</b>	
<b>City Utilities:</b>	No comments received.
<b>Fire Department:</b>	No comments received.

<b>Police Department:</b>	No comments received.
<b>City Engineer:</b>	The proposed PUD amendment for multi-family use on Lot 4 does not impact access or drainage on the site.
<b>City Services:</b>	No comments received.
<b>CAMPO:</b>	No comments received.
<b>Parks Department:</b>	No comments received.

### History of this Location:

The relevant history of this property includes the following:

1. On November 1<sup>st</sup>, 1994, the subject area was approved by City Council to be rezoned from AG (Agricultural District) to a PUD (RZ-94-12). The original preliminary PUD (PUD-94-8) and preliminary plat (PP-94-19) for the Westwood development area were also subsequently approved. The preliminary PUD established regulations such as permitted uses and height requirements. Details for individual developments such as parking, signage, landscaping, or architectural details would be submitted and reviewed by the Plan Commission for each new building when the site was ready to be developed.
2. On June 3<sup>rd</sup>, 1997, the preliminary PUD was approved to be amended by City Council, which reduced the required setback for Area (C) from 50 to 40 feet along the south and east property lines (PUD-97-5).
3. On January 4<sup>th</sup>, 1999, Columbus City council approved of an amendment to the preliminary PUD which allowed for a sign easement at the southwest corner of Westwood Boulevard and Jonathan Moore Pike (SR 46) (PUD-98-2). The sign easement would be the location of an off-site sign which would identify Westwood, feature 3 panels, and 200 points of landscaping at the base of the sign. This amendment also created "Block D" which is a new property created for the purposes of drainage which would be maintained by the owners of lots on either side of the block.

### Comprehensive Plan Consideration(s):

The Future Land Use Map indicates the future use of this property as Commercial.

The following Comprehensive Plan goal(s) and/or policy(ies) apply to this application:

1. **POLICY A-2-11:** Encourage all new development to be in scale (height, area, mass, setback, etc.) with its surroundings, determined on a neighborhood-by-neighborhood basis.
2. **POLICY A-4-4:** Encourage residential clustering and other development types that conserve open space and natural resources and reduce infrastructure costs.
3. **GOAL D-1:** Develop new housing where adequate public services can be provided economically.
4. **POLICY D-1-1:** Promote orderly housing expansion in locations where the city's infrastructure and services have the capacity to accommodate the growth.
5. **POLICY D-1-3:** Encourage development adjacent to already developed areas.
6. **GOAL D-2:** Encourage development of a sufficient supply of diverse housing types, sizes, and price ranges in the community.
7. **POLICY D-2-2:** Allow for various housing types.
8. **POLICY D-2-6:** Encourage development of a sufficient supply of housing in all price ranges so that all citizens of the community can enjoy decent, safe, and sanitary housing in desirable neighborhood settings.
9. **GOAL E-2:** Promote the use of designated highway corridors as areas for commercial development.

This property is located in the Western Gateway character area. The following Planning Principle(s) apply to this application:

1. Commercial development and agriculture should continue to be the dominant land uses in this area.
2. Any additional residential development should be a type similar to those already in the area: urban density, attached or multi-family units.
3. Any new residential development should be appropriately buffered from commercial areas, through setbacks, landscaping, and fencing.
4. Pedestrian and bicycle connections should be provided among commercial areas as well as between residential and commercial areas.

**Planning Consideration(s):**

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. The Westwood PUD was originally approved of and developed on the west side of Columbus along Jonathan Moore Pike (SR 46) in 1994. The intention of this 39.27 acre development, which included three internal streets including Pine Ridge Drive, Jaimee Lane, and Westwood Boulevard, was for the purpose of providing a mix of uses including offices, retail, and residential. The Westwood preliminary PUD broke up the site into three different areas (A, B, & C) in which permitted uses and development standards are indicated separately. Area (A), which is 6.89 acres, is located on the western most portion of the site and permits a predominate mix of office, retail, and personal service uses. Area (B), which is 10.73 acres, is located along the public street frontage of Jonathan Moore Pike and permits all of the uses in Area (A) in addition to higher intensity office, retail, personal service, and public facilities uses. Area (C), which is 21.65 acres, is located on the southern edge of the site and permits all types of residential uses (single-family, multi-family, etc.) as well as office and recreational facilities.
2. The current preliminary PUD has the following applicable development standards for the entire area as well as specific development standards for each area as indicated below.
  - a. The following standards apply to the entire development area:
    - i. Maximum building height in any area shall not exceed thirty-five (35) feet above grade as measured at the main entry to the building.
    - ii. Parking requirements based upon Article XXV of pre-2008 Zoning Ordinance.
    - iii. Landscaping, sidewalks, signs and other site details would be reviewed as part of the final PUD site plan.
  - b. The commercial uses with Area (A) have the following separate standards:
    - i. A maximum of four buildings may be constructed in this area.
    - ii. A minimum setback of 70 feet to an adjoining exterior residential property line. 20 feet of the setback shall include landscape screening.
    - iii. At least 50% of the lot area shall be devoted to open space which shall include parking and landscaping.
  - c. The commercial uses within Area (B), including Lot 4, have the following separate standards:
    - i. A maximum of eight buildings may be constructed in this area.
    - ii. Buildings adjoining State Road 46 will be designed as double front buildings in order not to present a back yard to the highway.
    - iii. At least 40% of lot area shall be devoted to open space which shall include parking and landscaping.
  - d. The residential and commercial uses within Area (C) have the following separate standards:
    - i. A maximum density of 15 dwelling units per gross acre.
    - ii. For Residential: A minimum setback of 40 feet from east, south, and west property lines.
    - iii. For Non-Residential: A minimum setback of 70 feet to an adjoining exterior residential property lines. 20 feet of the setback shall include landscape screening.
    - iv. 50% of the lot area of commercial development shall be devoted to open space.
    - v. Office space shall not be intermixed with residential uses.
3. Breeden Investment is proposing to revise the preliminary PUD for the purpose of allowing multi-family residential on Lot 4 of the Westwood major subdivision within Area (B) as defined by the preliminary PUD. The applicant is further requesting to remove Lot 4 from the requirements of Area



(B) and applying the lot standards (for details see item #9) that are within the RM (Residential: Multi-family). These lot standards would include a maximum gross density of 25 dwelling units per acre, minimum setbacks of 10 feet from all property lines, and a minimum living area of 500 square feet. At this time, there is no provided site plan for a new multi-family development, which would be submitted as a final PUD and evaluated for its site improvements by the Plan Commission.

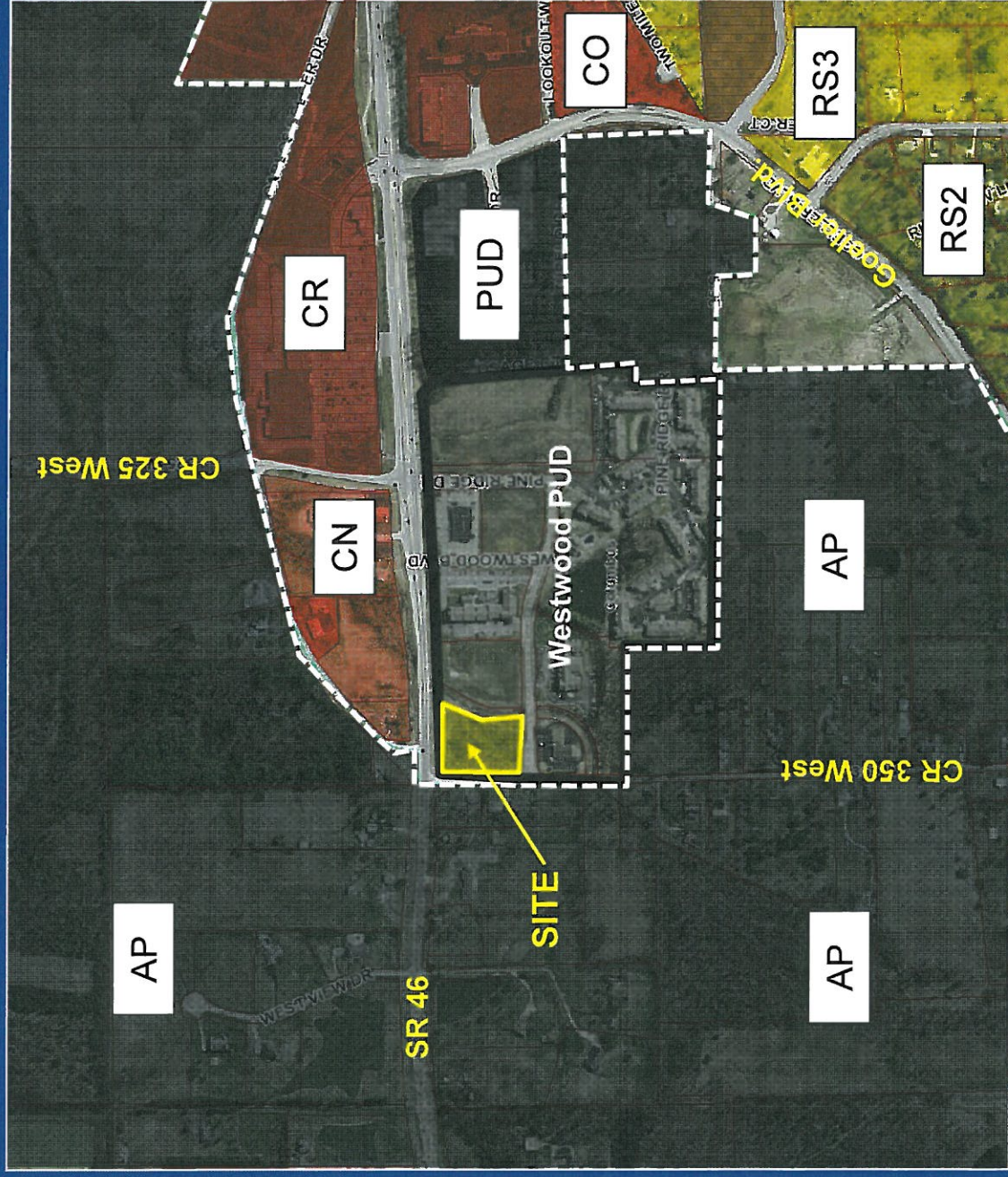
4. Area (B) including Lot 4 is located along the public street frontage of Jonathan Moore Pike as well as along Pine Ridge Drive, CR 350 West, Jaimee Lane, and Westwood Boulevard. While potential vehicular access would be limited to the internal local drives, the area is highly visible along this principle arterial which would be suitable for most commercial development. Area (C), which is the only area which allows for residential (including multi-family), is located in on the south side of the development area and is not highly visible from any major thoroughfares. This area currently features Westwood Pines, a multi-family apartment complex which has 13 buildings and 202 residential units.
5. Multi-Family Residential is the highest intensity residential use and can feature a variety of different types of development including apartment complexes, condominiums, attached townhomes or any residential property which features 3 or more dwelling units. Multi-family residential is a type of use where because of the result of the large number of dwelling units in a smaller area, there should be access to a higher amount of developed infrastructure and services. Typical locations for multi-family development have connections to the following items: vehicular access, pedestrian network, schools, commercial services, and emergency services.
6. Lot 4 is located on the northwestern corner of the Westwood development area. The property is located along Jonathan Moore Pike which is a commercial heavy corridor. The commercial development along this corridor primarily serves the surrounding residential neighborhoods in western Columbus. The property is also along the edge of the city limits of the City of Columbus. West of the subject property, outside of the city limits, are a variety of low-density single-family home properties. Potential development of Lot 4 could provide a potential transition from commercial development within the city limits to the neighboring low-density residential to the west.
7. The Westwood development area does provide some sidewalks where development has occurred on the internal public streets, however, there are missing gaps in the internal sidewalk network of Westwood development. Residents of a potential multi-family residential development on Lot 4 would not be able to walk on a sidewalk from the subject property to any commercial services in the area including the Marriott Hotel or CVS Pharmacy.
8. The Westwood development is also not well connected to the surrounding area, as a result of the state highway to the north and the rural residential properties to the south. The Columbus Bicycle and Pedestrian Plan does indicate a future trail along Jonathan Moore Pike which would link Columbus to Nashville. While there are no immediate plans to construct this portion of the trail and no decision has been made on which side the trail would be located, this potential pedestrian connection could link the Westwood development area to the surrounding area as well as to the entire City of Columbus.
9. As proposed by the applicant, the following standards from Zoning Ordinance Section 3.14(C), would apply to multi-family residential development on Lot 4:

<b>Lot and/or Density Requirements:</b>	<b>Maximum Gross Density:</b> 25 Dwelling Units per Acre <b>Minimum Lot Area:</b> Residential Use: 1,500 sq. ft. per dwelling unit (with a minimum of 6,000 square feet if fewer than 4 units) <b>Minimum Lot Width:</b> 50 feet <b>Minimum Lot Frontage:</b> 50 feet <b>Minimum Lot Coverage:</b> 65%
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<p><b>Setbacks Required:</b></p> <p>Front setbacks are determined by the Thoroughfare Plan Classification of the adjacent street and are the same regardless of zoning.</p>	<p><b>Side Yard Setback:</b>  Two-Family Structure: 5 feet  Multi-Family Structure: 10 feet  Accessory Structure: 5 feet</p> <p><b>Rear Yard Setback:</b>  Primary Structure: 10 feet  Accessory Structure: 5 feet</p> <p><b>Front Yard Setback:</b>  Arterial Street: 10 feet*  Collector Street: 10 feet*  Local Street: 10 feet*</p> <p><i>*25 feet for any auto service bay, auto fuel pump canopy, or other similar vehicle access points to structures.</i></p>
<p><b>Floor Area Requirements:</b></p>	<p><b>Minimum Living Area per Dwelling:</b>  Two-Family: 1,000 sq. ft.  Multi-Family: 500 sq. ft.</p> <p><b>Minimum Ground Floor Living Area:</b>  N/A</p>
<p><b>Height Requirements:</b></p>	<p><b>Primary Structure:</b>  50 feet</p> <p><b>Accessory Structure:</b>  25 feet</p>



# Site Location & Surrounding Zoning





## LAND USE SUMMARY

AREA 7X). A MAXIMUM OF FOUR BUILDINGS MAY BE CONSTRUCTED IN THIS AREA ON APPROPRIATELY PLATTED LOTS. NO BUILDING SHALL BE ERRECTED CLOSER THAN SEVENTY (70) FEET TO AN ADJACINING EXTERIOR RESIDENTIAL PROPERTY LINE. TWENTY (20) FEET OF THAT TEN FEET SHALL BE APPROXIMATELY SIERCHED WITH FINISH PLANT MATERIAL. AT LEAST FIFTY (50%) PERCENT OF LOT AREA SHALL BE DEDICATED TO OPEN SPACE WHICH SHALL INCLUDE PARKING AND LANDSCAPING.

AREA "B": A MAXIMUM OF EIGHT BUILDINGS MAY BE CONSTRUCTED IN THIS AREA ON APPROPRIATELY PLATTED LOTS. THOSE BUILDINGS ADJOINING STATE ROAD 46 WILL BE DESIGNED AS DOUBLE FRONT BUILDINGS IN ORDER NOT TO PRESENT A BACK YARD TO THE HIGHWAY. AT LEAST FORTY (40%) PERCENT OF LOT AREA SHALL BE DEVOTED TO OPEN SPACE WHICH SHALL INCLUDE PARKING AND LANDSCAPING.

AREA 3.2. RESIDENTIAL BUILDING: A MAXIMUM OF SINGLE FAMILY, DUPLEX, AND MULTI-FAMILY DWELLINGS NOT TO EXCEED A DENSITY OF FIFTY (50) DWELLING UNITS PER ACRE (36,000 SQ. FT.) BEING LOCATED IN A MINIMUM OF TWO (2) ACRES. ALL DWELLINGS SHALL BE LOCATED WITHIN A MINIMUM OF TEN (10) FEET ON THE SOUTH AND EAST SIDES OF EACH OFFICE LOT. BE CONSTRUCTED IN THIS TYPE, IN ADDITION COMMERCIAL, PROFESSIONAL, AND CORPORATE OFFICES ARE PERMITTED SO LONG AS FIFTY (50%) PERCENT OF EACH OFFICE LOT IS DEDICATED TO OPEN SPACE, AND SO LONG AS SUCH OFFICE SPACE IS NOT INTERFERED HARMFULLY WITH THE RESIDENTIAL USES. NO OFFICE BUILDING SHALL BE SITUATED CLOSER THAN TEN (10) FEET TO AN ADJACING EXISTING RESIDENTIAL PROPERTY LINE. TWENTY (20) FEET OF LOT 70 FEET SHALL BE ADJACENTLY SCREENED WITH LIVING PLANT MATERIAL.

LOT 4: MULTI-FAMILY RESIDENTIAL IN ACCORDANCE WITH THE ZONING ORDINANCE OF CURRENT ADOPTION, EFFECTIVE APRIL 3, 2008. SAID LOT 4 IS AMENDED FROM AREA "B" AS PREVIOUSLY DESIGNATED ON ORIGINAL PLUD OF "WETWOOD" AND ANY REQUIREMENTS THEREOF;

**PERMITTED USES:**  
AREA A-1: ALL USES PERMITTED IN THE RB AND B-1 ZONING DISTRICTS IN ADDITION TO CORPORATE OFFICES, MOTEL WITH LOUNGE AND DINING FACILITIES, AND RESTAURANTS WITH DRIVE-UP FACILITIES.

AREA B-7: ALL USES PERMITTED IN AREA A AND IN THE B-2 ZONING DISTRICT EXCEPT Taverns, Nightclubs, Billiard Rooms, and Garden Supply Centers. UNLESS FULLY CONTAINED WITHIN A BUILDING, A CONVENIENCE CENTER WITH SELF-SERVICE GASOLINE FACILITIES MAY BE CONSTRUCTED IN THIS AREA.

AREA "C": PERMITTED USES SHALL CONSIST OF SINGLE FAMILY TWO-FAMILY, AND MULTI-FAMILY BUILDINGS, AND COMMERCIAL, PROFESSIONAL, AND CORPORATE OFFICE BUILDINGS SITUATED TO TAKE MAXIMUM ADVANTAGE OF THE EXISTING TERRAIN AND TOPOGRAPHIC FEATURES. CHILD AND ADULT DAY-CARE FACILITIES, GROUP HOMES, HOME OCCUPATIONS, AND RECREATIONAL FACILITIES ARE ALSO PERMITTED.

LOT 4: ALL USES PERMITTED IN AREA "B", IN ADDITION, MULTI-FAMILY RESIDENTIAL IN ACCORDANCE WITH THE ZONING ORDINANCE OF CURRENT ADOPTION, EFFECTIVE APRIL 3, 2006.

HEIGHT: MAXIMUM BUILDING HEIGHT IN ANY AREA SHALL NOT EXCEED THIRTY-FIVE (35) FEET ABOVE GRADE AS MEASURED AT THE MAIN ENTRY TO THE BUILDING

PARKING AS SET FORTH IN ARTICLE XXV OF THE ZONING ORDINANCE AND AS FURTHER APPROVED BY THE PLAN COMMISSION AS PART OF THE FINAL DETAILED SITE PLAN FOR EACH LOT.

SIDEWALKS, SIDEWALKS AND PATHS TO PROVIDE PEDESTRIAN ACCESS WILL BE PROVIDED AS NECESSARY AND WILL BE SHOWN ON THE FINAL DETAILED SITE PLAN OF EACH LOT.

SIGNAGE: SUBJECT TO PLANNING COMMISSION APPROVAL AS PART OF THE FINAL DETAILED SITE PLAN OF EACH LOT, AREA 'B' CONTAINS ONE PERMANENT DESIGNATION SIGN WITH A MINIMUM OF 200 LANDSCAPE POINTS. ALL NEW SIGNS MUST BE OF MONUMENT TYPE AND NO MORE THAN SIX FEET IN HEIGHT, AND SHALL MEET THE SIGN REGULATIONS OF THE COLUMBIUS ZONING ORDINANCE.

ACCESSORIES: SITE ACCESSORIES SUCH AS DUMPSTERS, LOADING DOCKS, --, ECT SHALL BE SCREENED FROM VIEW OF OFF-SITE TRAFFIC.

**DEVELOPMENT SUMMARY**

TOPOGRAPHY: THE SITE SLOPES IN A GENERAL SOUTH TO NORTH DIRECTION WITH SLOPES RANGING FROM 0 TO 20 PERCENT. SITE GRADING WILL BE PERFORMED IN AN EFFORT TO BALANCE THE NATURAL FEATURES OF THE SITE WITH THE NEEDS OF THE INDIVIDUAL BUILDINGS AND PARKING AREAS. THE EXISTING POND IN BLOCK "C" WILL BE PRESENTED AS ONE OF THE SITE AMENITIES.

STORM DRAINAGE. THE GENERAL DRAINAGE PATTERN IS FROM SOUTH TO NORTH, AN UNPAVED TRIBUTARY OF WOLF CREEK ENTERS NEAR THE SOUTHWEST CORNER OF THE COUNTY ROAD 360 AND EXITS NORTH INTO ROAD 16. TWO OTHER COLLECTS IN THE AREA EXIST FOR THE DRAINAGE FOR THE EASTERN PORTION OF THE SITE.

IT SHOULD BE NOTED THAT A STRIP OF LAND DUNE ON EACH SIDE OF THE UNPAVED TRIBUTARY IS CLASSIFIED AS ZONE "W" FLOODPLAIN AND WOULD BE SUBJECT TO FLOODING DURING A MAJOR FLOOD. SUCH A FLOOD HAS BEEN DEVELOPING APPROXIMATELY 620 FEET NORTH OF THE COUNTY ROAD 360 WEST CANYON THERAPEUTIC RESERVE DEVELOPMENT. CONSTRUCTION OF FLOOD DUNE AT THIS LOCATION HAS CAUSED FLOODING OF THE COUNTY ROAD 360 WEST CANYON THERAPEUTIC RESERVE. THE GENERAL DRAINAGE PATTERN WILL BE MAINTAINED WITH DRAINAGE FACILITIES BEING CONSTRUCTED AS APPROPRIATE (AS IS SHOWN ON THE DETAILS). THE PLANS WHICH ALSO SHOW SPECIFIC DRAINAGE DETAILS.

UTILITIES: WATER AND SEWER - BY CONNECTION TO CITY OF COLUMBUS UTILITIES AFTER ANNEXATION.  
ELECTRICAL POWER - BY CONNECTION TO POWER COMPANY HAVING JURISDICTION.  
NATURAL GAS - CONNECTION TO INDIANA GAS  
TELEPHONE - BY CONNECTION TO AMERITECH

LANDSCAPING: EXISTING TREES WILL BE PRESERVED WHEREVER POSSIBLE. LANDSCAPING AROUND PARKING AND BUILDINGS AS WELL AS ANY BUFFER OR SCREEN PLANTINGS WILL BE SHOWN ON THE DETAILED SITE PLAN FOR EACH LOT AS PART OF FINAL APPROVAL.

TIMEABLE: IT IS ESTIMATED THAT INITIAL SITE CONSTRUCTION OF THE BASIC INFRASTRUCTURE WILL BEGIN IN THE FALL OF 1994. BUILDING CONSTRUCTION ON INDIVIDUAL LOTS WILL BEGIN AS SOON AS BUYERS ARE FOUND AND PLANS APPROVED.

ARCHITECTURAL, REFINISH, BUILDING DESIGN, COLOR, MATERIALS, ECT. ARE SUBJECT TO REVIEW BY THE ARCHITECTURAL CONTROL COMMITTEE WHICH WILL CONSIST OF MEMBERS OF WESTWOOD LLC OR THOSE DESIGNATED TO ACT FOR THEM, BEFORE SUBMISSION OF THE DETAILED SITE PLAN OF EACH LOT FOR PLAN COMMISSION APPROVAL.

R.R. GRAY III, L.S.

P.O. BOX 1367  
COLUMBUS, INDIANA 47302  
BUS. 812-372-7388 FAX 812-372-2178

REV:SEPT. 24, 2012 - AS PER REVIEW COMMENTS



LOT 4 IN "WESTWOOD" AS RECORDED IN PLAT BOOK "Q," PAGE 279A, IN THE OFFICE OF THE RECORDER OF BARTHOLOMEW COUNTY, INDIANA.

THIS AMENDED PRELIMINARY P.L.D. IS A REVISION TO THE "WESTWOOD" PRELIMINARY PUD, ORDINANCE NUMBER 47-1994, AS RECORDED IN CONDOMINIUM BOOK "C", PAGE 834, IN THE OFFICE OF THE BATHOLONEW COUNTY RECORDER. SAID P.L.D. WAS APPROVED BY THE COLUMBUS CITY PLAN COMMISSION AT A MEETING HELD OCTOBER 5, 1994 AND APPROVED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS AT A MEETING HELD NOVEMBER 1, 1994.

THE PURPOSE OF THIS AMENDMENT IS TO ALLOW FOR LOT 4 IN "WESTWOOD" AS RECORDED IN PLAT BOOK 27, PAGE 279A IN THE OFFICE OF THE BARTHOLOMEW COUNTY RECORDERS OFFICE, TO BE DEVELOPED AS A USE OF MULTI-FAMILY RESIDENTIAL IN ACCORDANCE WITH THE ZONING ORDINANCE OF CURRENT ADDITIONAL EFFECTIVE APRIL 3, 2004, SAID LOT 4 IS AMENDED FROM AEBL 19 AS PREVIOUSLY DESIGNATED ON ORIGINAL PLD OF "WESTWOOD" AND ANY REQUIREMENTS THEREOF.

**LOT 4 - "WESTWOOD"**  
BREEDEN INVESTMENT GROUP, INC.  
(AUD. MAP #03-95-28-120-000.104-005)

ANITA L. HOLE, BARTHOLOMEW COUNTY RECORDER

APPROVED BY THE CITY PLAN COMMISSION AT A MEETING HELD \_\_\_\_\_, 2012

PRESIDENT \_\_\_\_\_

SECRETARY \_\_\_\_\_

## RECORDED IN:

CONDO BOOK \_\_\_\_\_, "PAGE \_\_\_\_\_, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012 AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M.  
INSTRUMENT NO. \_\_\_\_\_, FEE PAID \_\_\_\_\_

A NOTATION HAS BEEN MADE ON THE ORIGINAL PRELIMINARY PUD OF WESTWOOD<sup>®</sup> AS RECORDED IN CONDO BOOK "C", PAGE 5A.

A NOTATION HAS BEEN MADE ON WESTWOOD AMENDED PUD<sup>®</sup> AS RECORDED IN CONDO BOOK "C", PAGE 19E.

A NOTATION HAS BEEN MADE ON WESTWOOD SECOND AMENDED PUD<sup>®</sup> AS RECORDED IN CONDO BOOK "C", PAGE 36A.

ANITA L. HOLE, BARTHOLOMEW COUNTY RECORDER

ORDINANCE NO. \_\_\_\_-2013  
AMENDING ORDINANCE NO. 20-2011,  
ESTABLISHING A FUND FOR THE RECEIPT OF USER FEES ASSOCIATED  
WITH THE RENTAL OF THE COLUMBUS POLICE  
DEPARTMENT FIREARMS RANGE,  
FUNDS FROM USED SHELL CASINGS, FUNDS FROM FINGERPRINTING  
FEES, CRIMINAL BACKGROUND CHECK FEES, SOLICITATION LICENSE  
FEES, AUDIO OR PHOTOGRAPHIC EVIDENCE PREPARATION FEES,  
CITIZEN'S FIREARMS CLASS FEES, AND TEEN DRIVING FEES.

WHEREAS, Ind. Code 36-1-3-2 et. Seq. grants to the City of Columbus, Indiana, all powers that are necessary for the effective operation of government as to local affairs; and

WHEREAS, the Columbus Police Department operates and maintains a firearms range and training facility located at 2875 Grissom Street, Columbus, Indiana, and

WHEREAS, numerous local, state, and federal law enforcement agencies regularly request the use of said firearms range and training facility; and

WHEREAS, the Columbus Police Department uses funds to operate and maintain said firearms range; and

WHEREAS, the use of said firearms range produces spent shell casings that have monetary value; and

WHEREAS, the Columbus Police Department wishes to charge a fee for the use of the firearms range and/or training facility and use these revenues to support maintenance of the range and other training needs; and

WHEREAS, the Columbus Police Department has established guidelines and a waiver of liability for the use of said firearms range and training facility; and

WHEREAS, the Columbus Police Department wishes to maintain discretion regarding the rental and or use of said facility; and

WHEREAS, the Columbus Police Department wishes to charge a fee for fingerprinting individuals and plans to use these revenues to support youth programs and other training needs; and



WHEREAS, the Columbus Police Department wishes to charge a fee for criminal background checks and plans to use these revenues to support youth programs and other training needs; and

WHEREAS, the Columbus Police Department wishes to charge a fee for solicitation licenses and employee identifications; and

WHEREAS, the Columbus Police Department wishes to charge a fee for preparing audio or photographic evidence and plans to use these revenues to support youth programs and other training needs; and

WHEREAS, the Columbus Police Department wishes to charge a fee to conduct its Citizen's Firearms Safety class and Precision Driving for Teens class and plans to use these revenues to support said programs; and

WHEREAS, the Columbus Police Department wishes to place revenues from the use of the firearms training facility, spent shell casings, fingerprinting fees, criminal background checks, solicitation licenses, audio/photographic evidence preparation, citizen's firearms class and teen driving class into the CPD Revenues Fund, #996; and

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA AS FOLLOWS:

**Section I. All funds collected from the rental of the firearms range and/or training facility, spent shell casings, fingerprinting fees, criminal background checks, solicitation licenses, audio/photographic evidence preparation, citizen's firearms class and teen driving class shall be deposited in the CPD Revenues Fund, #996.**

Section II. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed.

Section III. The adoption of this ordinance shall be in full force and effect from and after its passage and approval according to the laws of the State of Indiana.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF  
COLUMBUS, INDIANA, on this the \_\_\_\_ day of January, 2013, by a vote of  
\_\_\_\_ ayes and \_\_\_\_ nays.

---

Kristen Brown, Mayor  
Presiding Officer of the Common Council

ATTEST:

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Clerk of the Common Council of Columbus, Indiana  
Luann Welmer

Presented by me to the Mayor of Columbus, Indiana, this \_\_\_\_ day of  
January, 2013 at \_\_\_\_ o'clock \_\_\_\_ .m.

---

Luann Welmer  
Clerk-Treasurer

Approved and signed by me this \_\_\_\_ day of January, 2013 at \_\_\_\_  
o'clock \_\_\_\_ .m.

---

Kristen Brown  
Mayor of the City of Columbus, Indiana

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

CITY OF COLUMBUS ORDINANCE NO. \_\_\_\_\_ 2012

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA,  
AMENDING CHAPTER 9 OF THE COLUMBUS CITY CODE  
TO ADD SECTION 9.34, ETHICS ORDINANCE**

**WHEREAS**, Indiana Code 36-1-3 et. seq. confers upon units of government within the State of Indiana such powers as necessary or desirable to conduct the affairs of local government; and

**WHEREAS**, Indiana Code 36-4-6-18 authorizes the Common Council of the City of Columbus, Indiana to pass such ordinances, orders, resolutions and motions as may be necessary and proper for the governmental unit to fulfill and satisfy the responsibilities and duties of said governmental unit; and

**WHEREAS**, the Common Council desires to promote confidence in city business regarding the official conduct of officials, councillors, appointees, and employees of city government; and

**WHEREAS**, it is the desire of the Common Council to provide clear and high ethical standards regarding city business, so that it is transparent and conducive to the public good.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, AS FOLLOWS:**

**SECTION I.** Chapter 9, Article 34 of the Columbus City Code, Ethic Ordinance, is hereby adopted to read as follows:

**CHAPTER 9.34  
ETHICS ORDINANCE**

**ARTICLE I. GENERAL PROVISIONS**

9.34.010      Name and purpose.  
9.34.020      Definitions.

**ARTICLE II. STANDARDS OF ETHICAL CONDUCT**

9.34.030.      Gifts; favors; service, entertainment; travel expenses; waivers.  
9.34.040      Honoraria.  
9.34.050      Political activity and patronage.  
9.34.060      Employment restrictions.  
9.34.070      Additional or excel compensation.  
9.34.080      Nepotism.  
9.34.090      Conflicts of interest; discussion, decisions, and voting.  
9.34.100      Conflicts of interest; contracts.  
9.34.110      Benefiting from or divulging confidential information.  
9.34.120      Use of city property.  
9.34.130      Complicity with another's violation.  
9.34.140      Complaints filed in bad faith.

**ARTICLE III. REVIEW OF ETHICAL CONDUCT**

**DIVISION 1. General Provisions**

9.34.170      Agency policies.  
9.34.180      Training requirements.  
9.34.190      Advisory opinions.

## **DIVISION 2. City Ethics Commission**

<b>9.34.250</b>	<b>Establishment and purpose.</b>
<b>9.34.260</b>	<b>Established, Appointment, terms, and qualifications of members.</b>
<b>9.34.270</b>	<b>Officers; quorum; meetings.</b>
<b>9.34.280</b>	<b>Jurisdiction.</b>
<b>9.34.290</b>	<b>Powers</b>
<b>9.34.300</b>	<b>Adopting, Amending and Rescinding Rules and Regulations</b>
<b>9.34.310</b>	<b>Complaint process—filing and review by Ethics Commission Attorney.</b>
<b>9.34.320</b>	<b>Same—complaints referred to the Ethics Commission.</b>
<b>9.34.330</b>	<b>Decision of the Ethics Commission.</b>
<b>9.34.340</b>	<b>Agreed settlements.</b>
<b>9.34.350</b>	<b>Report of action taken by department head or director of an agency.</b>
<b>9.34.360</b>	<b>Unlawful interference with Ethics Commission activities.</b>
<b>9.34.370</b>	<b>Disclosure requirements – public records.</b>
<b>9.34.380</b>	<b>Same – public meetings.</b>

## **ARTICLE IV. VIOLATIONS AND ENFORCEMENT**

<b>9.34.400</b>	<b>Voluntary remedial actions.</b>
<b>9.34.410</b>	<b>Violations and penalties.</b>
<b>9.34.420</b>	<b>Whistleblower protection.</b>
<b>9.34.430</b>	<b>Miscellaneous provisions.</b>

### **Sec. 9.34.010 Name and purpose.**

- a. This chapter shall be referred to as the “Ethics Ordinance.”
- b. The purpose of this chapter is to set clear and high ethical standards for the official conduct of officials, councillors, appointees, and employees of city government and persons who have a business relationship with city government so that the public will have confidence that the conduct of city business is always conducive to the public good. Citizens, businesses and visitors alike look to government to be a model example of an ethical organization.
- c. The City’s elected and appointed officials and employees shall perform their duties for the benefit of the citizens of the city. They shall conduct the government of the city with loyalty, integrity and impartiality, without the appearance or perception of allowing prejudice, favoritism or the opportunity for personal gain to influence their decisions or actions or to interfere with serving the public interest.
- d. Public confidence in the integrity of government is essential to the exercise of good government. Accordingly, those persons under the jurisdiction of the ethics commission should be committed to the following goals:
  1. Duties should be carried out impartially;
  2. Decisions and policy should not be made outside of proper channels of city government;
  3. Public office should not be used for private gain; and
  4. Actions, transactions, or involvements should not be performed or engaged in which have the potential to, or the appearance of, becoming a conflict of interest.
- e. This chapter is not meant to unduly restrict or limit the behavior of the officials, councillors, appointees, or employees during the time when they are not on duty. Each official, councillor, appointee, or employee retains lawful rights and privileges as a private citizen to interests of a personal or private financial nature. These rights and privileges will be honored to the extent that they are compatible with an individual’s elected office, appointed position, or employment.

## **Sec. 9.34.020. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

**Advisory body** means an authority, board, commission, committee, task force, or other body designated by any name of the city government that is authorized to make only nonbinding recommendations.

**Agency** means an authority, board, commission, committee, office of the mayor, city common council, city clerk-treasurer, department, office, service, or other entity, by whatever name designated, exercising a portion of the executive, administrative, or legislative power of the city.

**Appointee(s)** includes, other than an official or employee:

- (1) members of all City commissions, committees, and boards established by state statute or local ordinance, policy or motion, who can make binding recommendations and are appointed by the Mayor or the Common Council, and
- (2) individuals who are appointed to an agency, a municipal corporation, a department, or a governmental entity in the City whose budget is subject to the review of the City Common Council;

**Assist or assistance** means to help, aid, advise, or furnish information to a person, and includes an offer to assist.

**Business relationship** means dealings with an agency by a person who personally or as an employee has or benefits from:

- (1) A financial interest in a contract with, or purchase by, an agency; or
- (2) A license or permit requiring the exercise of judgment or discretion by the agency.

Such dealings with an agency do not include Tax Abatements considered under I.C. 6-1.1-42.

**Candidate for elected office** means a **candidate** for the office of mayor, office of clerk-treasurer and city common council.

**City** means the City of Columbus, Bartholomew County, Indiana.

**Compensation** means any money, thing of value, forgiveness, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

**Councillor(s)** includes the elected Common Council Members.

**Department Head** means a city employee who is the head of a city department and reports directly to the Mayor or to a board or commission in which the Mayor and/or the Columbus Common Council has appointive powers by a majority of its members.

**Dependent** means a child, step-child, or adoptee of an individual who is unemancipated and less than 18 years old, or an individual more than one-half (1/2) of whose support is provided during a year by the individual.

**Direct line of supervision** means an official or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancements, or performance evaluations. The term does not include the responsibilities of the Mayor or councillors to make decisions regarding salary ordinances, budgets or personnel policies of the agencies.

**Donor(s)** means a person who has a business relationship with a city agency or the agency's appointee's or employee's.

**Employee(s)** includes an individual, other than an official, councillor, or appointee, who is employed by a City agency on a full-time, part-time, temporary, intermittent, or an hourly basis, is subject to an employment contract with the City, or is a volunteer or intern for an agency.



**Entertainment** means the free admission or token of admission to a sporting contest, concert, theatrical production, convocation, parade, convention, festival, or other similar show or presentation that is intended for the enjoyment or diversion of members of the public upon paid admission.

**Ethics Commission** refers to the city ethics commission created under Article III - Division 3 - Section 9.34.250.

**Fair market value** means the price that would be paid by a willing buyer to a willing seller in a good faith transaction in which objectively adequate consideration is provided and neither party is compelled to enter.

**Family Member** means any person related as a spouse, grandparent, step-grandparent, parent, step-parent, father-in-law, mother-in-law, child, step-child, adopted child, son-in-law, daughter-in-law, grandchild, step-grandchild, brother, sister, step-brother, step-sister, brother or sister by half-blood, uncle, aunt, niece, nephew or first cousin.

**Financial interest** means an interest which will result in an ascertainable increase or decrease in the income or net worth of the official, councillor, appointee, or employee or a member of that individual's immediate family, but does not include an interest:

- (1) Of an official, councillor, appointee, or employee in the common stock of a corporation unless the combined holdings in the corporation of the official, councillor, appointee, or employee, that individual's spouse, and that individual's dependent are more than five percent (5%) of the outstanding shares of the common stock of the corporation; or
- (2) Held as an asset in a blind trust.

**Immediate family** means an individual's spouse or dependent.

**Gift** means that which is accepted by an individual or by another on the individual's behalf, or that which is paid or given to another for or on behalf of an individual, directly, indirectly, or in trust for the individual's benefit or by any other means, for which equal or greater consideration is not given by the individual.

Among other things, a GIFT may be:

- (1) real property;
- (2) the use of real property;
- (3) tangible or intangible personal property;
- (4) the use of tangible or intangible personal property;
- (5) a preferential rate or terms on a debt, loan, goods, or services (which rate is below the customary rate and is not either a government rate available to all other similar situated government employees or public officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin);
- (6) forgiveness of indebtedness;
- (7) lodging or parking, food or beverage;
- (8) membership dues;
- (9) registration fees subject to 9.34.030(b)(14);
- (10) tickets to events, performance or facilities;
- (11) services provided by persons pursuant to a professional license or certificate;
- (12) other personal services for which a fee is normally charged by the person providing the services;
- (13) any other similar service or thing having an attributable value not already provided for in this section.

GIFT does not include:

- (1) Salary, benefits, services, fees, commissions, gifts or expenses associated primarily with an individual's employment or business or provided to the individual by the city or by an international governmental agency as a customary gift in the normal course of business, to the extent that such gift is not inconsistent with applicable Indiana statutes;
- (2) An award, plaque, certificate, or similar personalized item given in recognition of the individual's public, civic, charitable, or professional service;
- (3) An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization;

- (4) The use of a public facility or public property, made available by a governmental agency, for a public purpose;
- (5) An honorarium described under Section 9.34.040;
- (6) An expense related to an honorarium event paid to an individual or an individual's spouse or guest;
- (7) Transportation provided by a person, agency, entity or business in relation to officially approved governmental business.

**Information of a confidential nature** means information obtained by reason of the position or office held, and which:

- (1) A public agency is prohibited from disclosing under IC 5-14-3-4(a);
- (2) A public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed.

**Official(s)** includes the elected Mayor and Clerk-Treasurer of the City.

**Person** means an individual or firm, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental entity.

**Political activity** means taking action to support an individual in his or her campaign for elected office, or soliciting contributions for a political party or another candidate for any elected public office.

**Relative** means any person related as a spouse, parent, step-parent, child, step-child, adopted child, son-in-law, daughter-in-law, brother, sister, step-brother, step-sister, brother or sister by half-blood, uncle, aunt, niece, or nephew.

**Represent** means to attend an agency proceeding, write a letter, or communicate with an official, appointee, or employee of an agency on behalf of a person.

**Sanctions** mean any of the following actions:

- (1) Canceling a contract, or barring a person from entering into a contract with an agency for a certain period of time;
- (2) Making restitution or disgorgement;
- (3) Revocation or suspension of a license, registration, or permit issued by an agency or barring a person from obtaining such a license, registration, or permit for a certain period of time;
- (4) Censure of an official or councillor; or
- (5) Disciplinary action.

**Travel expenses** mean the costs of transportation, lodging, and meals. The term includes actual travel expenses or an amount approximating those expenses that would be allowed by travel policies and procedures of the City.

## ARTICLE II. STANDARDS OF ETHICAL CONDUCT

### **Sec. 9.34.030. Gifts; favors; service, entertainment; travel expenses; waivers.**

- a. An official, councillor, appointee or employee, or the immediate family thereof, shall not knowingly solicit, accept, or receive a gift, favor, entertainment, or travel expense, from a person who has a business relationship with the official's, councillor's, appointee's or employee's agency or is seeking to influence an action by the official, councillor, appointee or employee in his or her official capacity.
- b. The prohibition in subsection (a) does not apply to:
  1. Any gift, favor, entertainment, or travel expense from a person and that person's employer, that has a value of fifty dollars (\$50) or less on any one occasion and that has a cumulative value of two hundred and fifty dollars (\$250) or less, in any year between May 1 and April 30;

2. Gifts, favors, entertainment, or travel expenses to members of the immediate family of an official, councillor, appointee or employee that the official, councillor, appointee or employee may benefit from so long as the gifts or other items of value are provided in the normal course of the immediate family member's employment or volunteer work and the purpose of which is not to influence action or inaction by the appointee or employee;
3. Any gift, favor, entertainment or travel expense from the employer of an official's, councillor's, appointee's or employee's spouse, not offered in the normal course of business and directed primarily at the spouse, but including the official, councillor, appointee or employee as a guest, that have a cumulative value of five hundred dollars or less (\$500) in any year between May 1 and April 30;
4. Gifts, favors, entertainment, or travel expenses from relatives, or a person with whom the individual has an ongoing social relationship that existed before the official, councillor, appointee or employee was elected, appointed or employed by the City and/or agency, so long as the gifts or other items of value are paid for personally by the giver, rather than a business or political entity, and not deducted as a business expense;
5. Gifts, favors, entertainment or travel expenses from public agencies or public institutions; however, such gifts, favors, entertainment or travel expenses shall be utilized for the benefit of the city, and not solely for the benefit of one's self or relatives;
6. Food or beverage consumed at a public meeting to which at least six (6) individuals are invited; a meeting will be considered public if:
  - A. The event is a reception or other gathering that is not arranged to solicit government procurement of goods or services from anyone who holds a public office at the federal, state, or local level;
  - B. The official, councillor, appointee or employee is giving a speech or participating in a presentation in his or her official capacity; or
  - C. The meeting has a formal educational program that the official, councillor, appointee or employee is attending to assist him or her in performing official duties;
7. Food, beverage, entertainment, parking, lodging, or registration fees accepted in furtherance of activities to benefit the city related to an economic development effort, including job growth or retention, an area needing redevelopment, and securing convention and visitor business, approved in advance by the mayor.
8. Mementos or souvenirs;
9. Political contributions subject to I.C. 3-9-2 that are reported in accordance with the law;
10. Discount and other promotional programs made generally available and approved in advance by the city operations and finance director or the city attorney;
11. Property accepted as a gift to the city and logged by the Clerk-Treasurer;
12. Donations to an IRS, Section 501(c)(3) Organization, set up through a city agency;
13. Any item of value for which face value or reasonable fair market value is promptly paid;
14. Registration fees for a local community charitable fundraiser event;
15. Solicitation for a charitable or non-profit agency;
16. Reasonable and customary gifts directed to and/or shared with an agency in celebration of a Holiday (i.e. cookies, fruit, flowers, etc...).

- c. The Ethics Commission may waive application of subsection (a) of this rule in individual cases when consistent with the public interest. The waiver shall be in writing and include:
  - 1. The name of the official, councillor, appointee or employee;
  - 2. The nature and estimated value of that which is being provided;
  - 3. The name of any person who paid a portion of that which is being provided; and
  - 4. An explanation of why acceptance is consistent with the public interest.

**Sec. 9.34.040. Honoraria.**

- a. As used in this section, *honorarium* means a payment of money for an appearance, a speech or an article, but does not include payment or reimbursement of travel expenses.
- b. An official, councillor, appointee, or employee shall not personally accept an honorarium for any activity that may be considered part of his or her official duties; however, an official, councillor, appointee, or employee may accept an honorarium on behalf of the city. The official, councillor, appointee, or employee accepting the honorarium shall within twenty-one (21) days of receipt remit to the city clerk-treasurer any amount received.
- c. An official, councillor, appointee, or employee may personally accept an honorarium for activities not done in connection with his or her official duties and that are prepared on his or her own time; however, no official, appointee, or employee may accept an honorarium from a person who has a business relationship with an official, appointee, or employee of that individual's agency without prior consent from the Ethics Commission, and with a cap of seven hundred and fifty dollars (\$750) in any year between May 1 and April 30.

**Sec. 9.34.050. Political activity and patronage.**

- a. An appointee or employee shall not engage in political activity while on city time during normal business hours, or with city resources.
- b. No official, councillor, appointee, or employee may request or compel political activity by a person under threat or promise of official action or inaction. No official, councillor, appointee, or employee may promise an appointment or employment as a reward for any political activity.
- c. A department head or director of an agency, appointees, and employees with final purchasing authority shall not solicit political contributions from persons with a business relationship with his or her agency on behalf of any candidate for elected office, unless that individual is a candidate for elected office himself or herself, and in that case, not during normal business hours.
- d. It shall not be a violation of this section specifically or this chapter generally for any official, councillor, appointee, or employee:
  - 1. To encourage another official, councillor, appointee, or employee to work the polls in an official position; however, no appointee's appointment or employee's performance assessment or employment may be affected by an appointee's or employee's decision to work the polls; or
  - 2. To work the polls in an official position on city time as approved by his or her department head or director.

**Sec. 9.34.060. Employment restrictions.**

- a. An official, appointee, or employee shall not knowingly:
  - 1. Accept other employment involving compensation of substantial value if the responsibilities of that employment:
    - A. Are inherently incompatible with the responsibilities of his or her position; or
    - B. Require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be substantially impaired;

or

2. Accept employment or engage in business or professional activity that would require the individual to disclose confidential information that was gained in the course of city employment.
- b. An advisory opinion from the Ethics Commission that grants approval of outside employment is conclusive proof that an individual is not in violation of subsection (a)(1) or (a)(2).

**Sec. 9.34.070. Additional or excess compensation.**

An official, councillor, appointee, or employee may not solicit or receive compensation:

- a. For the sale or lease of any property or service to a person with a business relationship with the councillor or an official's, appointee's, or employee's agency that substantially exceeds that which the councillor, official, appointee, or employee would charge in the ordinary course of business; or
- b. For the performance of official duties other than as provided by law.

**Sec. 9.34.080. Nepotism**

- a. Starting July 2, 2012, individuals who are family members may not be employed by an agency in a position that results in one (1) family member being in the direct line of supervision of the other family member.
- b. This section shall not apply to the following:
  1. An individual employed by an agency on or before July 1, 2012 unless the individual has a break in employment with the agency. A list of all City employees employed on July 1, 2012 is attached hereto and incorporated herein as **Attachment A**. A break in employment does not include:
    - A. An employee that is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.
    - B. An individual's employment with an agency that is terminated followed by immediate reemployment by the agency, without loss of payroll time.
  2. An employee of an agency who is employed prior to the date a relative begins serving a term as an official, councillor or appointee, and results in the employee being in the direct line of supervision of the official, councillor or appointee. Said employee may continue his/her employment or hold his/her rank. However, said employee may then not:
    - A. Be promoted to a new position; or
    - B. Be promoted to a position that is not within the merit ranks of the Columbus Police Department or Columbus Fire Department;

If the new position would place the employee in the direct line of supervision of a relative.

- c. All official and councilors shall annually certify in writing, by December 31 or each year, compliance with the City's Nepotism Policy.

**Sec. 9.34.090. Conflicts of interest; discussion, decisions, and voting.**

- a. At a meeting held in accordance with IC 5-14-1.5, an official or councillor shall not participate in any decision or vote, and an appointee or employee shall not participate in any discussion, decision, or vote, if he or she has knowledge that any of the following has a financial interest in the outcome of the decision or vote:
  1. The official, councillor, appointee, or employee;



2. A member of the immediate family of the official, councillor, appointee, or employee;
  3. A business organization in which the official, councillor, appointee, or employee is serving as an officer, a director, a trustee, a partner, employee, or subcontractor; or
  4. Any person with whom the official, councillor, employee, or appointee is negotiating or has an arrangement concerning prospective employment.
- b. An official, councillor, appointee, or employee who identifies a potential conflict of interest under this article shall recuse himself or herself from further action on the matter, and may seek an advisory opinion from the Ethics Commission by filing a written description detailing the nature and circumstances of the matter and making full disclosure of any related financial interest in the matter.
  - c. When an advisory opinion is sought under this section, the Ethics Commission or its designee shall:
    1. Implement all necessary procedures to screen the official, councillor, appointee, or employee seeking an advisory opinion from involvement in the matter; or
    2. Make a written determination whether the interest is so substantial that the Ethics Commission considers it likely to affect the integrity of the services that the city expects from the official, councillor, appointee, or employee.
  - d. A written determination under subsection (c)(2) shall be filed with the office of the city attorney, and constitutes conclusive proof whether the potential conflict of interest is a violation of this chapter.

**Sec. 9.34.100. Conflicts of interest; contracts.**

- a. Subject to subsection (b), an official or councillor, appointee, or employee; or a member of an official's, councillor's, appointee's, or employee's immediate family; or a relative of an official or councillor, may not knowingly have a financial interest in a contract made by that official's, councillor's, appointee's, or employee's agency.
- b. The prohibition in subsection (a) does not apply to:
  1. An official, councillor, appointee, or employee who does not participate in or have official responsibility for any of the activities of the contracting agency, if:
    - A. The contract is made after public notice or, where applicable, through competitive bidding or any other requirements under I.C. 5-22 or I.C. 36-1-21;
    - B. The agency makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered, or makes a certified statement of the reasons why the vendor or contractor was selected, as required by I.C. 36-1-21 *et. seq.*, Contracting with a Unit;
    - C. The official, councillor, appointee, or employee files with the Ethics Commission and office of the city attorney a Uniform Conflict of Interest Disclosure Statement (State form 54266 (R/ 6-12 / Form 236) or its amended form, as required by I.C. 35-44.1-1-4 *et. seq.* and I.C. 36-1-21, *et. seq.*, making full disclosure of all related financial interests in the contract;
    - D. The contract can be performed without compromising the performance of the official duties and responsibilities of the official, councillor, appointee, or employee; and
    - E. In the case of a contract for professional services, the department head or director of the contracting agency makes and files a written certification with the



Ethics Commission and office of the city attorney that no other official, councillor, appointee, or employee of that agency is available to perform those services as part of his or her regular duties;

or

2. An official, councillor, appointee, or employee who, acting in good faith, learns of an actual or prospective violation of the prohibition in subsection (a), provided that, not later than thirty (30) days after learning of the actual or prospective violation, the official, councillor, appointee, or employee makes a full written disclosure of any financial interests to the contracting agency, the Ethics Commission and the office of the city attorney, and terminates the financial interest.
- c. All officials, councillors, and appointees shall complete a Uniform Conflict of Interest Disclosure Statement (State form 54266 (R/ 6-12 / Form 236) or its amended form, on an annual basis no later than January 31, and submit said form to the city attorney and Ethics Commission. Employees shall submit them on an as needed basis.
- d. All officials and councilors shall annually certify in writing, by December 31 of each year, compliance with contract disclosure as required pursuant to Indiana Code 36-1-21-6.
- e. This section does not affect the initial term of a contract in existence at the time the term of office of an official or councillor begins.

**Sec. 9.34.110. Benefiting from or divulging confidential information.**

- a. An official, councillor, appointee, employee, former official, former councillor, former appointee, or former employee shall not materially benefit from information of a confidential nature except as permitted by law.
- b. An official, councillor, appointee, or employee shall not divulge information of a confidential nature except as permitted by law.

**Sec. 9.34.120. Use of city property.**

An official, councillor, appointee, or employee shall not use city property or personnel for any purpose other than for official city business or as allowed under the city's de minimis personal use policy; however, nothing in this Ethics Ordinance shall prohibit the use of take home vehicles for the Columbus Police Department officers and Columbus Fire Department officials or other city employees as provided by approved policy.

**Sec. 9.34.130. Complicity with another's violation.**

It shall be a violation of this chapter knowingly to induce, encourage, or aid, either directly or indirectly, anyone to violate any provision of this article.

**Sec. 9.34.140. Complaints filed in bad faith.**

It shall be a violation of this chapter to file in bad faith a complaint with the Ethics Commission against another person.

## ARTICLE III. REVIEW OF ETHICAL CONDUCT

### DIVISION 1. GENERAL PROVISIONS

#### **Sec. 9.34.170. Agency policies.**

An agency may adopt more specific ethics policies tailored to the needs and practices of that agency, provided that the policies do not conflict with, and are at least as strict as, this chapter. All such policies shall be subject to the review and approval of the city attorney where they shall be filed if approved.

#### **Sec. 9.34.180. Training requirements.**

- a. All officials, councilors, appointees, and employees shall be properly trained in the ethics ordinance as described in this chapter. Such training shall also include a review of criminal offenses against public administration (IC 35-44-1), the Access to Public Records Act (IC 5-14-1.5) and the Open Door Law (IC 5-14-3).
- b. The office of the city attorney and/or designees from the Ethics Commission shall prepare and administer the training required by this section with the assistance of the human resources division. Each agency's department head or director shall:
  1. Require all new appointees and employees to participate in ethics training within twelve (12) weeks of the appointee's appointment date and the employee's starting employment with the agency; and
  2. Require all appointees and employees to participate in ethics training at least every two (2) years during appointee's and employee's tenure with the agency.
- c. Each official and councilor shall participate in ethics training within twelve (12) weeks of starting their position.
- d. The office of the city attorney shall maintain documentation to demonstrate appointee's and employee's compliance with subdivisions (1) and (2) of subsection (b) of this section and official's and councilor's compliance with subdivision (c) of this section.
- e. At no time shall a lack of participation in training be a defense to a violation of this Ordinance.

#### **Sec. 9.34.190. Advisory opinions.**

- a. An advisory opinion from the Ethics Commission may be requested by:
  1. An official, councilor, appointee, employee, or former appointee or employee; or
  2. A person with a business relationship with an agency.
- b. Requests for an advisory opinion shall be in writing, signed by the person making the request, and designated an "Inquiry." The Inquiry shall state the official status of the person making the request and all material facts necessary for the Ethics Commission or its designee to understand the circumstances and render a complete advisory opinion. The Inquiry, if requested by someone under subsection (a)(1) or (a)(2), must relate specifically to that person.
- c. All advisory opinions shall be issued in writing, designated as an *Official Advisory Opinion*, signed by the Ethics Commission members or its designee, and shall be conditioned upon the following:
  1. The facts and circumstances as they actually exist; and
  2. All of the relevant facts and circumstances related to the advisory opinion have been disclosed.
- d. Any person directly affected by the advisory opinion may seek written clarification of the advisory opinion from the Ethics Commission or its designee. Any such request for clarification shall be made in writing to the Ethics Commission.

- e. Any person directly affected by the advisory opinion may appeal to the Ethics Commission for reconsideration of the advisory opinion. Any such appeal shall be made in writing.
- f. If a person who has requested an advisory opinion has been advised that certain action or inaction will lead to a violation of this chapter and has failed to comply after having been given a reasonable opportunity to do so, the Ethics Commission may review the matter to determine compliance with the advisory opinion and, in executive session, vote to initiate an investigation.
- g. A person who relies on an advisory opinion is not subject to sanctions with respect to that subject matter.
- h. The Ethics Commission on at least a quarterly basis, may publish for distribution on the city website the accumulated advisory opinions with the names, and other information deemed necessary to protect the identities of persons, removed in a format explaining the facts, the question, and the opinion. However, these opinions constitute advisory or deliberative material that are expressions of opinion used for decision-making, and are therefore not subject to mandatory disclosure under I.C. 5-14-3-4(6).

## **DIVISION 2. CITY ETHICS COMMISSION**

### **Sec. 9.34.250. Establishment and purpose.**

There hereby is established the City Ethics Commission. The purpose of the Ethics Commission is promptly to resolve matters within its jurisdiction and to provide certainty in the event of perceived ambiguity of this chapter. The Ethics Commission shall, at all times, approach matters before it with judicial temperament and it shall always act in accordance with the purposes of this chapter as stated in Section 9.34.010.

### **Sec. 9.34.260. Established, Appointment, terms, and qualifications of members.**

- a. The Ethics Commission has jurisdiction over current and former public officials, current and former councillors, current or former appointees, and current or former employees for acts or omissions during their elected term, appointment or employment. The Ethics Commission shall be composed of five (5) members who must be residents of the City.
- b. At no time may a member be:
  - 1. An official, councillor, appointee, or employee;
  - 2. A declared candidate for elected office for a City or Bartholomew County position or seat;
  - 3. An elected or appointed person in a governmental Bartholomew County position;
  - 4. An officer or employee of any political party; however, this shall not include an individual who is elected or appointed to serve as a delegate to a party convention;
  - 5. A person with a business relationship, or whose employer has a business relationship, with an agency or a person who intends to have a business relationship with an agency; or
- c. Appointments to the Ethics Commission shall be made as follows:
  - 1. The President of IUPUC shall appoint one member for an initial term of one year.
  - 2. The Board of Director of the Columbus United Way shall appoint one initial member for a term of two years.
  - 3. The Board of Directors of the Columbus Chamber of Commerce shall appoint an initial member for a term of one year.
  - 4. The Chief Executive Officer of the largest for-profit employer in the City shall appoint one initial member for a period of two years.
  - 5. The four appointees shall designate a fifth member who shall serve an initial term of one year. The fifth member shall not be an employee from IUPUC, United Way, Columbus Chamber of Commerce or the largest for-profit employer in the city.

- d. Each appointment shall be made for a term starting on January 1 and ending on December 31<sup>st</sup> of the year the term is over; however, each member shall serve until his or her successor is duly appointed and qualified. A member appointed to fill a vacancy shall serve for the duration of the unexpired term.
- e. The initial terms of the five (5) members of the Ethics Commission shall be staggered, as follows: The IUPUC, Chamber of Commerce and designated fifth member appointment terms shall end on December 31, 2013; the United Way and largest for-profit employer appointment terms shall end on December 31, 2014.
- f. Thereafter, all appointing bodies shall make appointments for a period of two years. No individual shall serve for a period of more than three consecutive two year terms.
- g. A member may be removed only upon the two-thirds majority vote of the city council.
- h. The Mayor shall appoint an attorney to serve as legal counsel for the Ethics Commission. Legal counsel for the Ethics Commission shall advise, investigate for, assist and counsel the Ethics Commission as necessary, but he or she is not a member of the Ethics Commission.
- i. Members of the Ethics Commission shall serve without compensation.
- j. Board Expenses: All Board expenses shall be borne by the budget of the Common Council and shall not exceed \$1,000 per year unless specially approved in advance by the Common Council.

**Sec. 9.34.270. Officers; quorum; meetings.**

- a. At the first January meeting of every year, the Ethics Commission shall annually elect a Chairperson (who cannot succeed himself/herself in that position), a Vice Chairperson and a Secretary from amongst the current Commission members.
- b. A quorum for the conduct of official action by the Ethics Commission shall be three (3) members.
- c. The Ethics Commission shall meet at the call of the chairperson or of three (3) members of the Ethics Commission, but shall meet, at a minimum, on a quarterly basis. Meetings of the Ethics Commission shall be held in accordance with IC 5-14-1.5 and as further provided in this chapter.

**Sec. 9.34.080. Jurisdiction.**

- a. The Ethics Commission has jurisdiction over officials, councillors, appointees, employees, persons with a business relationship with any agency, and individuals filing complaints before the ethics commission with respect to suspected violations of Article II and Article III, of this ordinance.
- b. The Ethics Commission does not have jurisdiction over the following:
  - 1. Complaints filed more than two (2) years after the date of the suspected violation;
  - 2. Suspected violations of agency policies; or
  - 3. Councillors or former councillors, except to the extent an alleged violation is within a councillor's or former councillor's scope of employment with the city as an elected member.
- c. A complaint or investigation before the Ethics Commission may be stayed if the matter is subject to pending litigation or notice by law enforcement that a criminal investigation is underway, or if there is a separate disciplinary proceeding pending.

#### **Sec. 9.34.290. Powers.**

- a. The Ethics Commission, or its designee, may:
  1. Consider complaints filed with the Ethics Commission;
  2. Issue Advisory Opinions;
  3. Consider an appeal or reconsideration of an advisory opinion;
  4. Issue subpoenas for witnesses and documents, or empower the city attorney's office to subpoena witnesses and documents;
  5. Order discovery to aid in investigations and hearings under this Chapter;
  6. Review, and provide future direction on, any gift waiver, post-employment waiver, or advisory opinion; and
  7. Review any Uniform Conflict of Interest Disclosure Statement, Disclosure of Relative's Contract with Municipality, or Certification regarding compliance with Nepotism Policy filed by officials, councillors, appointees, employees, and former employees; and
  8. Adopt, amend and rescind rules and regulations to effectuate the purposes of this Chapter and to specify procedures deemed necessary for the orderly and equitable disposition of complaints and opinions.
- b. The city attorney's office shall provide counsel to the ethics commission as appropriate.

#### **Sec. 9.34.300. Adopting, Amending and Rescinding Rules and Regulations**

The Ethics Commission, after the holding of a public hearing and receiving comment on the proposed rules regarding the process and procedures to carry out the Ethics Ordinance, may adopt, amend or rescind uniform rules of procedure to implement Chapter 9.34. The rules and regulations of the Ethics Commission shall be available to the public and copies of said rules and regulations of the Ethics Commission shall be on file in the Clerk-Treasurer's office.

#### **Sec. 9.34.310. Complaint process—filing and review by Ethics Commission Attorney.**

- a. Any individual may file a complaint. The complaint shall be in writing and signed by the complainant. The complaint shall state the nature of the alleged violation, the date, time and place of each occurrence, and name of the individual charged with the violation, referred to as the respondent.
- b. Complaints shall be filed with the Ethics Commission attorney, who shall promptly provide a copy to any persons against whom a violation is alleged. Said person/respondent shall have the option to respond in writing if he/she so chooses.
- c. Within thirty (30) days after receipt of a complaint, the Ethics Commission attorney shall conduct a preliminary investigation. The Ethics Commission attorney may request that the Ethics Commission extend the time for the completion of such preliminary investigation. If the Ethics Commission determines that such extension is necessary or desirable and would not be prejudicial to the person against whom a violation is alleged, the Ethics Commission shall grant the extension. If the Ethics Commission determines that the preliminary investigation must be completed in less than thirty (30) days in order to avoid prejudice or irreparable harm to the person against whom a violation is alleged, the Ethics Commission shall order the Ethics Commission attorney to complete the preliminary investigation in a shorter period of time, and the Ethics Commission attorney shall comply.



- d. If the Ethics Commission attorney determines that the complaint alleges violations of criminal acts, the Ethics Commission attorney shall promptly refer the complaint to an appropriate law enforcement agency and the matter may be stayed pending direction from the law enforcement agency.
- e. If the Ethics Commission attorney determines that the complaint alleges violations which subject the person to disciplinary action by an agency, the attorney will notify the department head or director of the person's agency and may stay the ethics investigation pending completion of a disciplinary proceeding.
- f. If the Ethics Commission attorney determines, after preliminary investigation, that there are no reasonable grounds to believe that a violation has occurred, the Ethics Commission attorney shall dismiss the complaint. If the Ethics Commission attorney dismisses the complaint, he or she shall do so in writing, setting forth the facts and the provisions of law upon which the dismissal is based, and provide copies of the written dismissal to the complainant, to the individual charged with the violation, and to the members of the Ethics Commission. The complainant shall have the right to appeal the decision of the Ethics Commission attorney.
- g. The Ethics Commission attorney shall refer the complaint to the Ethics Commission if, after a preliminary investigation, the Ethics Commission attorney does not:
  1. Ask for additional time to conduct a more extensive investigation pursuant to subsection (c);
  2. Refer the matter to law enforcement pursuant to subsection (d);
  3. Refer the matter to an agency department head or director pursuant to subsection (e), or
  4. Dismiss the complaint pursuant to subsection (f).

**Sec. 9.34.320. Same—complaints referred to the Ethics Commission.**

- a. When a complaint is referred by the Ethics Commission attorney, the Ethics Commission may, by majority vote:
  1. Reject, without further proceedings, a complaint that the Ethics Commission considers frivolous or inconsequential;
  2. Reject, without further proceedings, a complaint that the Ethics Commission is satisfied has been dealt with appropriately by an official, law enforcement agency or an agency department head or director;
  3. Determine that the complaint does not allege facts sufficient to constitute a violation of this chapter and dismiss the complaint; or
  4. Forward a copy of the complaint to an appropriate official or the department head or director of an agency for action and either stay the Ethics Commission's proceedings pending the other action or dismiss the action without prejudice.
- b. If a complaint is not disposed of under subsection (a):
  1. The Ethics Commission may refer the alleged violation for additional investigation by the Ethics Commission attorney; or
  2. If the Ethics Commission finds by a majority vote that probable cause exists to support an alleged violation, it shall set a public hearing on the matter. The respondent shall be notified within thirty (30) days of the Ethics Commission's determination. The hearing shall take place within sixty (60) days of the respondent being notified of the probable cause determination.



- c. The Ethics Commission may, by majority vote, decide to acknowledge the existence and scope of an investigation before the finding of probable cause or that the Ethics Commission did not find probable cause to support an alleged violation.
- d. If a hearing is to be held, the respondent shall be afforded appropriate due process protection, including the rights to be represented by counsel, to discovery, to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses.

**Sec. 9.34.330. Decision of the Ethics Commission.**

- a. After the hearing, if the Ethics Commission finds the respondent has not violated this chapter, it shall dismiss the charges through a report.
- b. If the Ethics Commission based on a preponderance of the evidence, finds by a majority vote that the respondent has violated this chapter, the Ethics Commission shall issue a report of its findings of fact and conclusions of law, as well as any recommendations for sanctions to be imposed on the respondent.
- c. The Ethics Commission shall take into account as it determines the appropriate remedy, and specifically address in its report or the agreed settlement, any voluntary remedial action as addressed by Section 9.34.390 by the respondent.
- d. Such report shall be in writing, supported and signed by a majority of the Ethics Commission members, and made public. Such report shall be presented to the respondent, the mayor, and the Commons Council. Such report may be presented to the county prosecutor, city attorney, or any other appropriate person.

**Sec. 9.34.340. Agreed settlements.**

- a. The Ethics Commission may resolve complaints or investigations through agreed settlements with respondents.
- b. In negotiations to settle under this section, the Ethics Commission attorney or a designee of the Ethics Commission ("negotiator") will negotiate on behalf of the Ethics Commission. At an informal conference to negotiate, no record shall be made, and no statement made by any person at such conference shall be used as evidence in any subsequent public hearing or proceeding.
- c. If the respondent and the negotiator concur that such an agreement would be appropriate, they may submit a proposal to the Ethics Commission for its approval or disapproval by majority vote. Such proposal shall be in writing, and may include a recommendation of any sanctions that the respondent has agreed to accept. If the proposal is submitted prior to a vote of the Ethics Commission that probable cause exists to support an alleged violation, the Ethics Commission vote on approval or disapproval of the agreement shall be in executive session unless the respondent has waived confidentiality. If the proposal is submitted after the Ethics Commission has voted that probable cause exists to support an alleged violation, the vote on approval or disapproval of the agreement shall be taken at an open meeting.
- d. If the Ethics Commission disapproves the proposal, the Ethics Commission shall proceed as provided in Section 9.34.320. If the Ethics Commission approves the proposal, the agreement shall be signed by the respondent and by a majority of the Ethics Commission members, shall be open to public inspection as a public record, and shall be presented to those persons as provided in subsection (d) of Section 9.34.330.
- e. In order to be a valid and binding agreement, an agreed settlement shall be approved by the agency department head or director that employs the respondent if any of the terms of the settlement agreement would limit the agency's legal authority or legal discretion to implement disciplinary action against the respondent.

**Sec. 9.34.350. Report of action taken by department head or director of an agency.**

Whenever a department head or director of an agency receives a report under Section 9.34.330, the department head or director of an agency shall, at the request of the Ethics Commission, report to the Ethics Commission the action taken in response to the report. The Ethics Commission may require in the report that the department head or director of an agency submit the response required by this section in a reasonable, specified amount of time.

**Sec. 9.34.360. Unlawful interference with Ethics Commission activities.**

- a. It shall be unlawful for a person to do any of the following:
  1. Knowingly or intentionally induce or attempt to induce, by threat, coercion, suggestion, or false statement, a witness or informant in an Ethics Commission proceeding or investigation to do any of the following:
    - A. Withhold or unreasonably delay the production of any testimony, information, document, or thing;
    - B. Avoid legal process summoning the person to testify or supply evidence;
    - C. Fail to appear at a proceeding or investigation to which the person has been summoned; or
    - D. Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in an Ethics Commission proceeding or investigation to mislead a member or employee of the Ethics Commission;
  2. Alter, damage, or remove a record, document, or thing except as permitted or required by law, with the intent to prevent the record, document, or thing from being produced or used in an Ethics Commission proceeding or investigation conducted pursuant to this chapter; or
  3. Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in an Ethics Commission proceeding or investigation to mislead a member of the Ethics Commission.
- b. A person who violates this section is subject to the general penalties provided by Section 9.34.430 of this Code.

**Sec. 9.34.370. Disclosure requirements – public records.**

- a. Except as otherwise required by state or federal law, the following provisions for disclosure shall apply.
  1. *Advisory Opinions.* Except as allowed by Section 9.34.190(h), advisory opinions under Section 9.34.190 shall be withheld from disclosure by the office of the city attorney, clerk-treasurer and/or the Ethics Commission, as authorized by IC 5-14-3-4(b).
  2. *Investigative Records.* Records pertaining to an investigation by the office of the city attorney or the Ethics Commission that are not used as evidence against the respondent may be kept confidential pursuant to IC 5-14-3-4(b).
  3. *Complaints.* A complaint that is filed with the Ethics Commission, prior to the Ethics Commission finding probable cause, shall be withheld from disclosure by the office of the city attorney, the clerk-treasurer and the Ethics Commission, as authorized by IC 5-14-3-4(b). A complaint filed with the Ethics Commission, after the Ethics Commission finds probable cause exists, shall be open for public inspection.

4. *Evidence.* Evidence received at an Ethics Commission hearing, after the Ethics Commission finds that probable cause exists, shall be open for public inspection.
  5. *Decision.* Decisions under Section 9.34.330 shall be open for public inspection.
- b. Notwithstanding subsection (a), records may, as otherwise permitted by law, be open for public inspection if the respondent elects to have information disclosed or if the office of the city attorney or the Ethics Commission determines it is in the public interest to do so.

**Sec. 9.34.380. Same – public meetings.**

Proceedings of the Ethics Commission shall be held in accordance with IC 5-14-1.5; however, prior to the Ethics Commission finding probable cause, a proceeding shall be held in executive session, pursuant to IC 5-14-1.5-6.1, unless the individual who filed the complaint or a person who is directly affected by the complaint requests a public hearing at least ten (10) days in advance.

**ARTICLE IV. VIOLATIONS AND ENFORCEMENT**

**Sec. 9.34.400. Voluntary remedial actions.**

Violations of any provision of this chapter should raise conscientious questions for the official, councilor, appointee, or employee concerned as to whether resignation, compensatory action, or a sincere, public apology is appropriate to promote the best interests of the city and to prevent the costs of an investigation and hearings by the Ethics Commission.

**Sec. 9.34.410. Violations and penalties.**

- a. In general: Failure to comply with any provision of this chapter shall be a violation of this chapter.
- b. Penalties: Anyone found in violation of this chapter shall be subject to:
  1. Sanctions that may be imposed upon recommendation by the Ethics Commission; and/or
  2. A penalty of up to \$500.00 for each offense; each day that a violation occurs shall be considered a separate offense.

**Sec. 9.34.420. Whistleblower protection.**

- a. Except as provided in subsection (b), an official, councilor, appointee, or employee shall not retaliate or threaten to retaliate against any person because the person did any of the following:
  1. File a complaint with the Ethics Commission;
  2. Provide information to the Ethics Commission, the Ethics Commission attorney, or the office of the city attorney; or
  3. Testify at an Ethics Commission proceeding.
- b. An official, councilor, appointee, or employee may take appropriate action against any person who took any of the actions listed in subsection (a) if the person did not act in good faith or knowingly or recklessly provided false information or testimony.
- c. A person who violates this section is subject to action under actions enumerated in Section 9.34.400 of this chapter.

**Sec. 9.34.430. Miscellaneous provisions.**

- a. The provisions of Section 9.34.090 shall not apply to family members who, on or before July 1, 2012 held positions in the same agency.
- b. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
- c. In the event that the terms of this chapter are in conflict with any state law or ruling of a state agency, such law, rule, regulations and/or ruling of the state agency shall supersede the terms of this chapter.
- d. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

**SECTION II.** All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed.

**SECTION III.** The adoption of the Ethics Ordinance shall be in full force and effect from and after its passage and approval as provided by Ind. Code § 36-3-4-14, and starting May 1, 2013.

**ADOPTED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA**, on this the \_\_\_\_\_ day of January, 2013, by a vote of \_\_\_\_\_ ayes and \_\_\_\_\_ nays.

\_\_\_\_\_  
Kristen Brown, Mayor  
Presiding Officer of the Common Council

**ATTEST:**

\_\_\_\_\_  
Clerk of the Common Council of Columbus, Indiana  
Luann Welmer

Presented by me to the Mayor of Columbus, Indiana, this \_\_\_\_\_ day of January, 2013 at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

\_\_\_\_\_  
Luann Welmer  
City of Columbus, Clerk-Treasurer

Approved and signed by me this \_\_\_\_\_ day of January, 2013 at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

\_\_\_\_\_  
Kristen Brown  
Mayor of the City of Columbus, Indiana